United Nations S/AC.37/2003/5

Security Council

Distr.: General
6 March 2003
English
Original: Spanish

Security Council Committee established pursuant to resolution 1267 (1999)

Letter dated 28 February 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Venezuela to the United Nations addressed to the Chairman of the Committee

Further to your communication dated 27 November, 2002, I have the honour to transmit to you annexed hereto the report of the Bolivarian Republic of Venezuela pursuant to Security Council resolution 1390 (2002).

(*Signed*) Adriana **Pulido**
Ambassador
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Annex to the letter dated 28 February 2003 from the Chargé d'affaires a.i. of the Permanent Mission of Venezuela to the United Nations addressed to the Chairman of the Committee

Report of the Bolivarian Republic of Venezuela to the Counter-Terrorism Committee pursuant to Security Council resolution 1390 (2002)

Contents of the report

1. **Legislative and/or administrative measures taken to freeze the funds and other financial assets or economic resources of the individuals, groups, undertakings and entities referred to in the list mentioned in paragraph 2 of resolution 1390 (2002), including funds derived from property owned or controlled, directly or indirectly, by them or by persons acting on their behalf or at their direction, ensuring that neither these nor any other funds, financial assets or economic resources are made available, directly or indirectly, for such persons' benefit, by their nationals or by any persons within their territory.**

As a Member of the United Nations and of the Organization of American States, Venezuela has, pursuant to United Nations Security Council resolutions for the elimination of terrorism, taken legislative and administrative steps to prevent money-laundering and the financing of terrorism, including activities related to terrorism and to legal or natural persons involved therein. To that end, and pursuant to the measures described in resolution 1390 (2002), the legislative and administrative measures describe below were taken.

With regard to legislative measures, Venezuelan law has a series of provisions governing economic and financial transactions that provide for procedures and penalties to guard against operations carried out by criminal and/or terrorist organizations; such provisions are basically contained in two legal instruments:

1. The Organic Law on Narcotic Drugs and Psychotropic Substances

2. The General Act on Banks and Other Financial Institutions

The Organic Law on Psychotropic Substances requires the Venezuelan financial system to design and develop policies and plans to protect itself against the laundering of proceeds of drug trafficking. In that regard, article 213 requires the national executive branch, through the appropriate agencies, to design and develop an operating plan including preventive measures at the national level to keep the banking and financial system from being used to launder funds and economic assets deriving from the commission of crimes specified in the Law or from activities related thereto.

The General Act on Banks and Other Financial Institutions, in keeping with the thrust of other current legislation and accepted principles of effective banking supervision, mandates banking practices and procedures that promote high ethical and professional standards to prevent the use of the banking system by criminal organizations. For that purpose, under article 226 of the Act a National Financial Intelligence Unit (UNIF) was created within the functional structure of the Office of the Superintendent of Banks and Other Financial Institutions (SBIF). The Unit functions as a central clearing house; it receives, analyses and classifies reports of

suspicious activities submitted by the institutions, firms and individuals subject to its supervision and forwards them to the Public Prosecutor's Office. In addition, it gathers financial information (both objective and subjective) on suspicious activities to assist the criminal investigation authorities.

Moreover, the General Act on Banks and Other Financial Institutions makes an exception to the general principle that requires financial institutions to maintain bank secrecy. In that regard, it states that bank secrecy cannot be cited as a reason for refusing requests for information from the Office of the Superintendent of Banks and Other Financial Institutions in the exercise of its functions.

The administrative measures taken to freeze the funds and other financial assets or economic resources of the individuals, groups, undertakings and entities to which reference is made in the list mentioned in paragraph 2 of resolution 1390 (2002) include:

1. Resolution No. 185-01 issued by the Office of the Superintendent of Banks and Other Financial Institutions.

2. Circular No. SBIF-UNIF-DPC-0563 of the Office of the Superintendent of Banks and Other Financial Institutions.

3. Circular No. SBIF.UNIF-DPC7961 of 23 September 2002.

Resolution No. 185-01 of 12 September 2001 (Rules applicable to entities regulated by the Office of the Superintendent of Banks and Other Financial Institutions on the prevention, control and inspection of money-laundering operations) requires the institution of modern mechanisms for monitoring and controlling the flow of funds, since the entities regulated by the Office of the Superintendent of Banks and Other Financial Institutions may be used by persons engaging in illegal activities. According to the resolution, it is the responsibility of the Government and of the stockholders, administrators, directors and staff of the regulated entities to prevent the entities from being used as intermediaries for money-laundering. To that end, they are required to set up information and electronic data-processing systems and control procedures aimed at detecting operations that involve the laundering of funds deriving from illegal activities and to assemble the necessary records for reporting to the competent authorities.

Financial institutions, registries and public notaries are required to report to the criminal investigation authorities all banking transactions that are unusual or that exceed a specified amount in national or foreign currency. Within the Scientific Criminal and Forensic Investigation Force an investigative unit called the Anti-Money-Laundering Division has been set up to be responsible for financial follow-up of all unusual banking transactions.

In addition, the Office of the Superintendent of Banks and Other Financial Institutions issued circular No. SBIF-UNIF-DPC-0563 instructing financial institutions about their obligation to report operations that they find or suspect are related to the laundering of funds deriving from activities connected with organized crime or intended for the financing of terrorism. As for circular No. SBIF.UNIF-DPC7961 of 23 September 2002, it requires financial institutions subject to the supervision of the National Financial Intelligence Unit to report to it all operations or activities that are suspected of being related to the activities of organized criminal groups or organized groups defined in the act ratifying the United Nations

Convention against Transnational Organized Crime published in the *Gaceta Oficial* No. 37.357 of 4 January 2002.

In that regard, the Financial Intelligence Unit of the Office of the Superintendent of Banks and Other Financial Institutions took the following preventive measures to combat terrorism:

- Determining relations with the financial system of natural and legal persons on the list of persons involved in terrorism or activities related directly or indirectly to drug trafficking;
- Gathering financial data in order to identify organizations that collect funds, and analysing and monitoring financial flows;
- Undertaking prospective analyses and developing the capacity to predict trends and patterns;
- Sharing information with the financial intelligence units of the 96 member countries of the Egmont Group, the Federal Bureau of Investigation (FBI), the Financial Crimes Enforcement Network (FINCEN) and the Embassy of the United States of America in Caracas. As a result, over 900 requests concerning persons suspected of involvement in or the financing of terrorist activities were processed.

At the international level, Venezuela signed and ratified the following conventions and treaties against the financing of terrorism:

1. The United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances published in *Gaceta Oficial* No. 34.741 of 21 June 1991;

2. The United Nations Convention against Transnational Organized Crime, published in *Gaceta Oficial* No. 37.357 of 4 January 2002;

3. The International Convention for the Repression of the Financing of Terrorism, adopted at second reading on 11 September 2002.

Lastly, it should be noted that the National Assembly is currently debating a draft act against organized crime, which was adopted at second reading, and a draft special act against terrorist acts, adopted at first reading. They criminalize terrorism as a separate offence and criminalize financial activities in support of terrorism, as well as persons involved in terrorism as principals and accessories before or after the fact.

2. **Measures adopted to prevent the entry into or the transit through Venezuela of the persons referred to in the list mentioned in paragraph 2 of resolution 1390 (2002).**

Following the 11 September 2001 terrorist attack, Venezuela tightened control measures in order to prevent the entry into the country of persons identified by international intelligence agencies as being suspected of involvement in, responsible for or accessories after the fact to terrorist activities. Therefore relevant measures have been implemented pursuant to resolution 1390 (2002). In that regard, the Government is processing information on individuals and assets and sharing intelligence with various countries. Security systems at ports, airports and border entry points have been strengthened.

Thus, a coordination network of all the State security agencies was established in order to protect Venezuela's borders and territory. There is a continuing exchange of information among those agencies and other police organizations around the world through Interpol, to check the identity of any individual who is under investigation for any reason.

Border controls have been tightened nationwide at all international airports and ports and the documents of all foreign visitors wishing to enter or leave the country are scrutinized more carefully.

Venezuela is taking steps to strengthen the national system of identification in order to prevent the fraudulent use of travel and identity documents. To that end, security systems and equipment have been put in place at the airports to evaluate identity documents in order to detect any anomaly in such documents that might suggest that they are forgeries. With regard to passports, the National Division for Identification and Immigration has drawn up a plan for replacing current passports with those that meet international security standards.

Multidisciplinary intelligence units have also been established at the national level to evaluate, analyse and process any information obtained on foreign nationals or Venezuelan citizens that suggest involvement in illegal activities in our country, and to fully identify them and monitor their movements, financial transactions or activities.

Venezuela is implementing, with United Nations assistance, a customs modernization project, starting with the customs service at the port of La Guaira, with a view to maximizing customs control at its borders and preventing international trafficking in arms, ammunition, explosives and drugs. Moreover, the draft national police act, soon to be adopted, provides for the creation of an airport police to facilitate the identification, in close cooperation with other State security agencies, of anyone entering or leaving the country.

With respect to legislation, article 2, paragraph 11 of the Act on Scientific, Criminal and Criminalistics Investigation Organs vests such organs with the responsibility for cooperating with other law enforcement agencies in establishing crime prevention centres and setting up control systems or crime databases in order to share information gathered by the intelligence services on drug trafficking, international terrorism, the disappearance of persons, illegal capital movements, organized crime and other offences. In that regard, article 2, paragraph 5, provides that such Organs shall assist the National Division for Identification and Immigration where necessary and shall collaborate in efforts to identify, locate and apprehend foreign nationals sought by other countries.

3. **Measures taken to prevent the direct or indirect supply, sale and transfer, to these individuals, groups, undertakings and entities from their territories or by their nationals outside their territories, or using their flag vessels or aircraft, of arms and related material of all types including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts for the aforementioned and technical advice, assistance, or training related to military activities.**

The manufacturing and illicit trafficking in firearms, ammunition and explosives is an offence under Venezuelan domestic law. The Weapons and Explosives Act, published in *Gaceta Oficial* No. 19.900 of 12 June 1939, contains

specific provisions concerning the trade in, the manufacture, possession, seizure and concealment of firearms, explosives and ammunition. The Venezuelan Penal Code in force contains penalties that are part of the legal arsenal aimed at combating the above-mentioned activities.

In that regard, the Disarmament Act was published in *Gaceta Oficial* No. 37.509 dated 20 August 2002. Its aim is to disarm the civilian population in order to maintain peace, law and order and the safety of the citizenry, safeguard institutions and protect the physical integrity of citizens and their property. It further provides that the army has authority to conduct and monitor the disarmament exercise.

However, such legislation that exists to combat the illicit trafficking in such arms needs to be strengthened and tailored to developments in such criminal activity, especially as it relates to terrorism. For that reason, the Defence and Security Committee of the National Assembly, together with other bodies and with the involvement of civil society, is currently drafting a bill on arms and explosives aimed at updating the existing legislation.

It is important to emphasize that Venezuela signed the Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Other Related Materials of 14 November 1997, which is currently awaiting ratification, since the National Assembly enacted the relevant enabling legislation on 12 June 2001.